

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
W.H. SHIPMAN, LIMITED)
To Amend the Agricultural Land)
Use District Boundary into the)
Urban Land Use District for)
approximately 487.74 acres at)
Keaau, Puna, Hawaii, Tax Map)
Key: 1-6-03: 78 and Portion 7)
_____)

DOCKET NO. A84-570

W.H. SHIPMAN, LIMITED

This is to certify that this is a true and correct
copy of the document on file in the office of the
State Land Use Commission, Honolulu, Hawaii.

1/09/90

Date

by

Esther Reed
Executive Officer

ORDER APPROVING IN PART MOTION TO
EXTEND TIME TO COMPLETE SUBSTANTIAL
DEVELOPMENT OF INCREMENT I AND TO APPLY FOR
INCREMENTAL REDISTRICTING OF INCREMENT II

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W.H. Shipman, Limited (hereinafter "Petitioner"),
filed its Motion to Extend Time Within Which to File a Petition
For Increment II of the W.H. Shipman Industrial Park on
September 26, 1989 in accordance with Hawaii Land Use
Commission Rules Subsections 15-15-70, 15-15-78, and 15-15-94.

The State Land Use Commission (hereinafter the
"Commission"), having considered Petitioner's memorandum and
testimony, and having receiving no objections from the Office
of State Planning or the County of Hawaii Planning Department,
hereby makes the following findings of fact, conclusions of law
and decision and order:

FINDINGS OF FACT

Background

1. By Decision and Order issued February 19, 1985,
the Commission redistricted approximately 312 acres from the

Agricultural District to the Urban District at Keaau, Puna, Hawaii. This area was referred to in the Decision and Order as Increment I of Petitioner's proposed industrial development.

2. The Decision and Order also approved the remaining area of Petitioner's industrial development, referred to as Increment II, consisting of approximately 176 acres, for incremental districting from the Agricultural District to the Urban District pursuant to State Land Use District Regulations Section 6-2.

3. Concerning the timing for redistricting of Increment II, the Decision and Order indicates that redistricting from the Agricultural to the Urban classification will be granted upon receipt of an application by Petitioner and a prima facie showing that there has been substantial completion of the off-site and on-site improvements within Increment I in accordance with the Petitioner's development plan.

4. Pursuant to Petitioner's development plan and the Commission's District Regulations Section 6-2, the Petitioner was allowed a period of five years to apply for redistricting of Increment II, during which time Petitioner was expected to make "substantial completion of the on-site and off-site improvements within Increment I."

5. The five-year period expires on February 19, 1990 and Petitioner states that it will not be able to make the prima-facie showing of substantial completion.

6. The purpose of the present motion is to obtain the Commission's approval to allow additional time to substantially complete Increment I. Petitioner proposes that the deadline to substantially complete Increment I and to file an application to redistrict Increment II be extended to December 31, 1994.

Position of the State and County

7. The Office of State Planning and the County of Hawaii Planning Department had no objections to Petitioner's Motion.

Petitioner's Efforts Towards Development of Increment I

8. Petitioner provided the following information regarding its efforts since March 1986 toward development of Increment I:

a. Following Land Use Commission approval, Petitioner applied to the County of Hawaii for rezoning of the Petition Area which was subsequently granted on a conditional basis on August 19, 1986.

b. Petitioner then applied for subdivision approval of the rezoned lands to create industrial lots which was granted by the County Council on December 30, 1987. Petitioner points out that it experienced unanticipated delays in obtaining various county approvals due in part to the need to work out an acceptable water supply and storage system with the County Department of Water Supply.

c. In addition, Petitioner states that since final subdivision was granted, improvements to the State highway have been completed; a 5,000 lineal foot, 16 inch water main line was installed to bring water from Keaau Village to the project; various on-site improvements including roads for Phase 1A of Increment I; and, Petitioner had expended \$2,536,924.00 in improvements.

d. Furthermore, work has begun on Phase 1B of Increment I and construction is expected to be completed by January 1990.

9. Petitioner represents that there is strong demand for industrial lots in the project as evidenced by the completion of the sale of lots on Phase 1A within a period of two weeks and the reservation of a substantial portion of Phase 1B lots.

10. Petitioner indicates that it is not financially capable of developing larger units of land for subdivision and sale even though it is experiencing strong market support. Petitioner further believes that it has made substantial progress in developing the project by making the necessary off-site improvements and developing and selling a substantial number of industrial lots. Petitioner also asserts that good cause exists to grant Petitioner additional time to December 31, 1994 to complete substantial development of Increment I and submit an application for redistricting of Increment II.

CONCLUSIONS OF LAW

The Commission finds upon a preponderance of evidence that pursuant to Chapter 205, Hawaii Revised Statutes, as amended, the Rules of Practice and Procedure and Section 6-3 of the District Regulations of the Land Use Commission, that although Petitioner believes it has made substantial progress in developing and selling the industrial project, Petitioner has not justified its request for a five-year time extension in light of the strong demand for industrial lots and that an extension of time of three years to substantially complete Increment I is reasonable and non-violative of Section 205-2, Hawaii Revised Statutes, and Section 6-3 of the Commission's District Regulations.

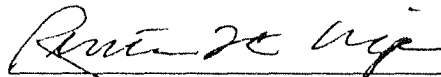
ORDER

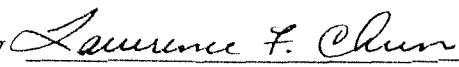
IT IS HEREBY ORDERED that Petitioner's motion for an extension of time to complete Increment I and to apply for redistricting of Increment II is granted in part. Petitioner is granted an extension of time to not later than February 19, 1993, to substantially complete Increment I and to apply for redistricting of Increment II. All other provisions of the decision and order issued February 19, 1985 shall remain in full force and effect.

DOCKET NO. A84-570 - W.H. SHIPMAN, LTD.

Done at Honolulu, Hawaii, this 9th day of January 1990,
per motion on December 14, 1989.

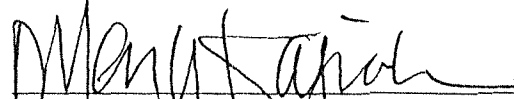
LAND USE COMMISSION
STATE OF HAWAII

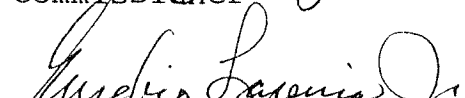
By 
RENTON L. K. NIP
Chairman and Commissioner

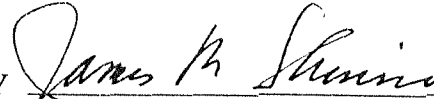
By 
LAWRENCE F. CHUN
Vice Chairman and Commissioner

By (absent)
SHARON R. HIMENO
Commissioner

By (absent)
ALLEN K. HOE
Commissioner

By 
ALLEN Y. KAJIOKA
Commissioner

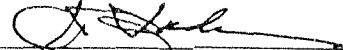
By 
EUSEBIO LAPENIA, JR.
Commissioner

By 
JAMES M. SHINNO
Commissioner

Filed and effective on
January 9, 1990

Certified by:


Executive Officer

By 
ELTON WADA
Commissioner

By (absent)
FREDERICK P. WHITEMORE
Commissioner

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CERTIFICATE OF SERVICE

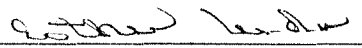
I hereby certify that a copy of the Order Approving in Part Motion to Extend Time to Complete Substantial Development of Increment I and to Apply for Incremental Redistricting of Increment II was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

HAROLD S. MASUMOTO, Director
Office of State Planning
State Capitol, Room 410
Honolulu, Hawaii 96813

CERT. DUANE KANUHA, Planning Director
Planning Department, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CERT. ALAN OKAMOTO, ESQ., Attorney for Petitioner
Nakamoto, Yoshioka & Okamoto
187 Kapiolani Street
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 9th day of January 1990.



ESTHER UEDA
Executive Officer